



In Defendant Jennifer Lyell's objection to Magistrate Judge Frensley's order, she improperly and maliciously refers to Plaintiff Michael David Sills as "an abuser." The fact that Plaintiffs' Complaint references a "list of abusers" on which David Sills was improperly included does not give Lyell or any other Defendant free rein to continue to defame Plaintiffs by continuously labeling David Sills as "an abuser," especially when it bears no relevance to whether or not discovery should be stayed. Context matters. The use of the word abuser by Defendant Lyell is superfluous and deliberately inflammatory. It is and should be considered scandalous. These attacks have already harmed Plaintiffs, and this Court should not permit these continued attacks on David Sills' character.

### **ARGUMENT**

#### **I. Plaintiffs' Motion to Strike Should be Granted**

Contrary to Lyell's argument, calling David Sills "an abuser" is wholly irrelevant to whether or not Judge Frensley's order denying Defendants' motion to stay should be overruled.<sup>1</sup> Rule 12(f) allows for a Court to strike from a pleading any "redundant, immaterial, or scandalous matter." Fed. R. Civ. P. 12(f). The inappropriate name-calling by Lyell is both scandalous and irrelevant as to whether or not discovery should be stayed in this case.

First, the inappropriate name calling has no bearing on whether or not the Ecclesiastical abstention doctrine applies.

Second, a look at the sentence at issue reveals that it is wholly immaterial to Lyell's argument—if you remove "an abuser" from the sentence, her argument (while unpersuasive) is

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<sup>1</sup> It is worth noting that Lyell is the only Defendant to challenge Judge Frensley's ruling. Other Defendants, specifically the Executive Committee of the Southern Baptist Convention, have accepted Judge Frensley's order and have served discovery requests on Plaintiff David Sills.

still made with sufficient context to allow the Court to determine if Judge Frensley's order should be overruled (it should not). Here is Lyell's argument with "an abuser" removed:

Of greatest concern, the Magistrate Judge's Order would permit David Sills [] to use the process of this Court to drag Jennifer Lyell through litigation in which he seeks now, belatedly, to revise his prior admissions of wrongdoing and assert claims that are time-barred on their face.

Dkt. No. 125 at 2.<sup>2</sup> The only logical explanation for the inclusion of this scandalous language was to further attack David Sills.

For similar reasons, the fact that Plaintiffs reference Defendant Guidepost's list of abusers in their Complaint does not give Lyell the authority to make gratuitous character attacks on David Sills. Plaintiffs do not dispute that this case involves Lyell's false allegations of sexual abuse and that Defendants must try to rebut Plaintiffs' claims. However, this does not require unprofessional name-calling in court filings (as shown above). Because this language is impertinent to the issues raised in Defendants' motion to Stay and Judge Frensley's order denying it, it should be stricken pursuant to Rule 12.

## **II. Plaintiffs' Motion for a Protective Order Should be Granted**

A protective order is the appropriate vehicle to prevent Defendants from continuing to defame Plaintiffs through this proceeding. Fed. R. Civ. P. 26(c) allows the Court, for good cause, to issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. The Court has broad discretion to enjoin Defendants from hurling unprofessional insults at Plaintiffs through court filings. *See Lee v. United States*, No. 2:17-cv-1090, 2020 U.S. Dist. LEXIS 174141, at \*3-4 (S.D. Ohio Sep. 22, 2020); *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36 (1984). Plaintiffs, particularly David Sills, have already suffered injury

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<sup>2</sup> Discovery will reveal that the only wrongdoing David Sills ever admitted to was a consensual affair with Lyell.

as a result of Lyell's court filing falsely labeling David Sills as an abuser. As Plaintiffs explained in their motion, this case is being monitored by the press, including on social media. As recently as last Friday, posts regarding David Sills being labeled an abuser were on X (formerly Twitter):



This post, and others like it, cause the type of specific harm warranting the entry of a protective order here.

Plaintiffs' request for entry of a protective order is not nearly as overbroad or unworkable as Lyell suggests. Rather, Plaintiffs merely seek protection from continued name-calling by Defendants, specifically enjoining Defendants from calling David Sills "an abuser" or the like in court filings.<sup>3</sup> Just as Plaintiffs do not intend to refer to Lyell as "Lyell, the liar," Defendants should be ordered to refrain from unprofessional bullying in this case.

### **CONCLUSION**

The context in which Defendant Lyell uses the word "abuser" is inappropriate, it causes great harm and prejudice to Plaintiffs, and it detracts from the dignity of the court. It should be stricken. Furthermore, Plaintiffs have already been harmed through social media posts as a result

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<sup>3</sup> To be clear, Plaintiffs are not suggesting that Defendants be allowed to refer to David Sills as an abuser at all, even in documents filed under seal. Plaintiffs anticipate that Defendants will seek a confidentiality designation over documents in their possession which refer to David Sills "an abuser."

of Lyell's attack on David Sills. In order to prevent further harm to Plaintiffs, Defendants should be enjoined from such name-calling in future court filings.

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Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I, Katherine B. Riley, an attorney, hereby certify that on January 9, 2024, I served the above and foregoing Plaintiffs' Reply In Support of Motion to Strike and Motion for Protective Order, by causing a true and accurate copy of such papers to be filed and served on the below listed counsel of record via the Court's CM/ECF electronic filing system.

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